

## United States District Court

FILED

NORTHERN

DISTRICT OF

CALIFORNIA

2008 APR 18 P 1:02

UNITED STATES OF AMERICA

V.

E-FILING

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
SANTA CLARA COUNTY, CALIF. S.J.  
CRIMINAL COMPLAINTEduardo ZUNIGA-Gutierrez  
(Name and Address of Defendant)

08-70239

HRL

CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, April 8, 2008, in Santa Clara County in the Northern District of California defendant(s), (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:  
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, two (2) years imprisonment, \$100.00 special assessment fee, and a Term of Supervised Release of one year.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

4/18/08  
Date

at

San Jose, California  
City and StateHoward R. Lloyd  
United States Magistrate Judge  
Name & Title of Judicial Officer

Signature of Judicial Officer

**RE:** ZUNIGA-Gutierrez, Eduardo A77 449 698

I am a Deportation Officer of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

- (1) Mr. ZUNIGA-Gutierrez is a 34-year-old male who has used nineteen (19) aliases and nine (9) dates of birth in the past.
- (2) Mr. ZUNIGA-Gutierrez has been assigned one (1) Alien Registration number of A77 449 698, FBI number of 496721DB4, California Criminal Information Index number of A12251083, and a Santa Clara County Personal File Number of DOG767.
- (3) Mr. ZUNIGA-Gutierrez is a native of Honduras and a citizen of Honduras since birth. A check through official records shows that he was arrested and deported on one (1) occasion from the United States:

**DATE**

April 18, 2007

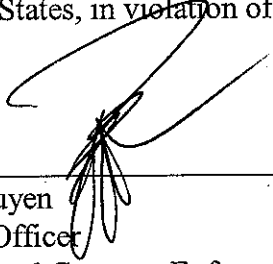
**PLACE OF DEPORTATION**

San Francisco International Airport

- (4) Mr. ZUNIGA-Gutierrez last entered the United States at or near Tecate, CA on or after April 18, 2007, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. ZUNIGA-Gutierrez on a date unknown, but no later than April 8, 2008, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrest and deportation, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On April 15, 2008, Mr. ZUNIGA-Gutierrez was interviewed by Immigration Enforcement Agent (IEA) John Ramirez at the Santa Clara County Jail Elmwood, Milpitas, CA, and during that interview, Mr. ZUNIGA-Gutierrez was advised of his **Miranda** rights in Spanish. Mr. ZUNIGA-Gutierrez waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Attorney General or the Secretary of Homeland Security to re-enter the United States.

**RE:** ZUNIGA-Gutierrez, Eduardo A77 449 698

- (6) Mr. ZUNIGA-Gutierrez was, on June 16, 1998, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of PETTY THEFT, a misdemeanor, in violation of Section 484/488 of the California Penal Code, and was sentenced to ten (10) days in jail.
- (7) Mr. ZUNIGA-Gutierrez was, on January 9, 2001, convicted in the Superior Court of California, in and for the County of San Mateo, for the offense of PETTY THEFT, a misdemeanor, in violation of Section 484/488 of the California Penal Code, and was sentenced to ten (10) days in jail.
- (8) Mr. ZUNIGA-Gutierrez was, on July 3, 2002, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of GRAND THEFT, a misdemeanor, in violation of Section 484/487 of the California Penal Code, and was sentenced to thirty (30) days in jail.
- (9) Mr. ZUNIGA-Gutierrez was, on June 16, 2003, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of RECEIVE KNOWN STOLEN PROPERTY, a felony, in violation of Section 496(a) of the California Penal Code, and was sentenced to nine (9) months in jail.
- (10) On the basis of the above information, there is probable cause to believe that Mr. ZUNIGA-Gutierrez illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.

  
\_\_\_\_\_  
Trong Q. Nguyen  
Deportation Officer  
Immigration and Customs Enforcement

Subscribed and sworn to before me this 18 day of April, 2008

  
\_\_\_\_\_  
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE